

### ***13 Official Opinions of the Compliance Board 25 (2019)***

- ◆ **7(D) Compliance Board Opinions – No need to address practices earlier than those on which the Compliance Board has already given guidance. (No Violation)**
- ◆ **Violations: None**

\*Topic numbers and headings correspond to those in the Opinions Index posted on the Open Meetings webpage at [www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx](http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx).

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**April 29, 2019**

#### **Re: Board of Trustees for Montgomery College**

All of the allegations in this complaint concern meetings that took place before we issued 12 *OMCB Opinions* 117 on December 31, 2018. In that opinion, we found that the Board of Trustees for Montgomery College (“Trustees”) violated § 3-305(d)<sup>1</sup> because it had not made all of the required disclosures before closing its meetings. We also provided guidance on the Trustees’ closing statements and closed-session summaries, and encouraged the Trustees to consider whether it could disclose in more detail the topics it discussed in closed session.

It appears that the complainant did not examine the Trustees’ recent practices. Had he done so, he would have discovered that it has changed its practices in such a way as to render the complaint obsolete. For example, the Trustees’ website now discloses when the Trustees expect to hold a closed session, and states that the public may observe the Trustees’ vote to move into closed session.<sup>2</sup> The Trustees has also made its closed-session summaries more intelligible and robust, pulling largely from the closed-session summary template posted on the Attorney General’s website. Moreover, in its response to the present complaint, the Trustees acknowledges that

its past practice of routinely including policy matters, including minor modifications, on the closed session agenda for possible legal advice is not consistent with the Act. While there may be some instances in the future where the [Trustees] may wish to obtain legal advice in closed session regarding certain policies, the [Trustees] acknowledges the need to be more judicious in doing so, and notes that since revamping its processes following the [issuance of 12 *OMCB Opinions* 117], the [Trustees] has not had any policy matters on its closed session agendas.

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<sup>1</sup> References are to the General Provisions Article of the Maryland Annotated Code (2014, 2018 supp.).

<sup>2</sup> The Act sets forth two independent requirements for indicating anticipated closed sessions: First, a public body must give reasonable advance notice of an anticipated closed session, § 3-302(b)(3), and second, it must state on its agenda for an open meeting “whether [it] expects to close any portion of the meeting.” § 3-302.1(a)(1)(ii).

We commend the Trustees for its demonstrated commitment to improve its compliance with the Act and dismiss this complaint as moot.<sup>3</sup>

**Conclusion**

The complaint is moot in light of our earlier guidance and the fact that the Trustees no longer follow the complained-of practices.

**Open Meetings Compliance Board**

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<sup>3</sup> The response also clearly demonstrates that at least one member trained on the Act attends all of its meetings.